

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

**JOSHUA L. PRICE,**

**Petitioner,**

:

**v.**

**Case No. 2:22-cv-02200**  
**Judge Sarah D. Morrison**  
**Magistrate Judge Michael R.**  
**Merz**

**WARDEN, CHILLICOTHE  
CORRECTIONAL  
INSTITUTION,**

:

**Respondent.**

**ORDER**

This matter is before the Court on the January 12, 2023 Report and Recommendation issued by the Magistrate Judge. (R&R, ECF No. 14.) Proceeding *pro se*, Petitioner Joshua L. Price brought this habeas corpus case pursuant to 28 U.S.C. § 2254 to obtain relief from his conviction and sentence in the Franklin County Court of Common Pleas for attempted aggravated burglary and aggravated robbery with firearm specifications. (Petition, ECF No. 1, PageID 1.)

The Magistrate Judge recommended that Mr. Price's Petition be dismissed with prejudice for two reasons. The Petition was filed more than six years after his conviction became final on direct appeal and was thus barred by the statute of limitation. (R&R, PageID 519–21.) Additionally, Mr. Price procedurally defaulted when he failed to present his claim on direct appeal to the Supreme Court of Ohio. (*Id.* PageID 521–22.) Mr. Price objected to the R&R. (Obj., ECF No. 15.)

A litigant who is the subject of an adverse report and recommendation from a magistrate judge is entitled to *de novo* review of those portions of the report to which proper objections are made. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Upon review, the Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1).

The Court finds no error in the Magistrate Judge’s conclusions or reasoning. The Objection provides no basis otherwise. Mr. Price argues his conviction was not supported by evidence (Obj., PageID 524), his sentence is invalid (*id.* PageID 525), and he has not procedurally defaulted because he eventually appealed to the Supreme Court of Ohio (*id.*). These arguments have no support in the law.

Mr. Price’s Objection is **OVERRULED**. (ECF No. 15.) For the reasons set forth in it, the Court **ADOPTS** and **AFFIRMS** the Report and Recommendation (ECF No. 14) and **DISMISSES** the Petition. Because reasonable jurists would not disagree with this conclusion, the Court also certifies that any appeal of this Order would be objectively frivolous, Mr. Price should not be permitted to proceed *in forma pauperis*, and therefore **DENIES** Mr. Price a certificate of appealability. The Clerk is **DIRECTED** to **TERMINATE** this case from the docket.

**IT IS SO ORDERED.**

/s/ Sarah D. Morrison  
**SARAH D. MORRISON**  
**UNITED STATES DISTRICT JUDGE**